

CITY OF MOUNTAIN VIEW  
RESOLUTION NO.  
SERIES 2012

A RESOLUTION DETERMINING THE PROGRAM ENVIRONMENTAL IMPACT REPORT PREPARED BY THE COUNTY OF SAN MATEO FOR THE REUSABLE BAG ORDINANCE BE FOUND ADEQUATE FOR THE CITY OF MOUNTAIN VIEW'S ACTION; AND ADOPTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF FACT FOR ADDITION OF ARTICLE IV TO CHAPTER 16 OF THE MOUNTAIN VIEW CITY CODE REGARDING REUSABLE BAGS

WHEREAS, single-use, carry-out bags constitute a high percentage of litter, which is unsightly, costly to clean up, and causes serious negative environmental impacts; and

WHEREAS, the City of Mountain View ("City") has a substantial interest in protecting its residents and the environment from negative impacts from plastic carry-out bags and single-use, carry-out bags ; and

WHEREAS, adoption of an ordinance regarding reusable bags is considered a "project" for purposes of the California Environmental Quality Act ("CEQA"), Public Resources Code, Section 21000, *et seq.*; and

WHEREAS, the County of San Mateo ("County") designated itself the lead agency for environmental review under CEQA of a reusable bag ordinance, addressing the impacts of an ordinance banning single-use, carry-out bags from stores, while requiring stores that provide recycled-content paper or reusable bags to charge customers a minimum of Ten Cents (\$0.10) per bag; and

WHEREAS, the County prepared a Program Environmental Impact Report ("EIR") specifically analyzing the environmental impacts of 24 jurisdictions (18 cities within San Mateo County and 6 cities in Santa Clara County, including the City of Mountain View) adopting the same ordinance as San Mateo County's within their respective jurisdictions; and

WHEREAS, on October 23, 2012, the San Mateo County Board of Supervisors certified a Program EIR; and

WHEREAS, the City is participating as a responsible agency in the Initial Study and Program EIR that was certified by the San Mateo County Board of Supervisors in connection with the County's adoption of the Reusable Bag Ordinance; and

WHEREAS, there are no site-specific operations required by the City's adoption of its ordinance that are anticipated to create environmental effects different from those covered by the Final Program EIR; and

WHEREAS, the City's proposed ordinance fits within the scope of the County's Program EIR and has, therefore, modeled its ordinance on the County's ordinance, and the ordinance is textually identical to the Reusable Bag Ordinance adopted by the County of San Mateo on October 23, 2012 in all substantive respects; and

WHEREAS, the City Council has reviewed and carefully considered the information in the Draft and Final Program EIR, and makes the findings contained in this resolution as an objective and accurate document that reflects the independent judgment and analysis of the City in the discussion of the ordinance's environmental impacts;

NOW, THEREFORE, BE IT RESOLVED that based on the entirety of the record before it, which includes, without limitation, San Mateo County's Program EIR, all reports, minutes, and public testimony submitted as part of the City Council's meeting on December 4, 2012, the City Council of the City of Mountain View, upon independent review and all the evidence before it, hereby finds as follows:

1. The foregoing recitals are true and correct and made a part of this Resolution.
2. The documents and other material constituting the record for these proceedings are located at the Public Works Department, Solid Waste and Recycling Section for the City of Mountain View, 500 Castro Street, Mountain View, California, 94041, and in the custody of the Solid Waste Program Manager.
3. The City Council has reviewed and considered the Program EIR and environmental impacts of the proposed ordinance as shown in the Program EIR.
4. The Program EIR prepared and certified by the County of San Mateo for adoption of a reusable bag ordinance within 24 jurisdictions in San Mateo and Santa Clara Counties, specifically including the City of Mountain View, having been prepared in accordance with the provisions of CEQA, is determined to be adequate for Council's action on this reusable bag ordinance.
5. The City Council hereby approves and adopts the entirety of the CEQA findings of fact for the City of Mountain View as a responsible agency pursuant to Section 15096 for the reusable bag ordinance, attached as Exhibit A, and incorporated herein by reference.

6. Based on the information and analysis in the Program EIR, the City Council finds that the proposed ordinance will not result in any significant effect on the environment. The City Council finds that there are no feasible alternatives or mitigation measures that would substantially lessen or avoid any significant effect the project would have on the environment.

7. None of the conditions in CEQA Guidelines Section 15162 or Section 15163 are applicable to adoption of this ordinance, and adoption of this ordinance is an activity that is part of the program examined by the EIR, is within the scope of the project described in the EIR, and no further environmental review is required.

BE IT FURTHER RESOLVED that a Notice of Determination shall be prepared and filed pursuant to CEQA Guidelines Section 15096.

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon its passage and adoption.

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**CEQA FINDINGS OF FACT  
OF THE CITY OF MOUNTAIN VIEW  
CITY COUNCIL**

**FOR THE  
REUSABLE BAG ORDINANCE**

**December 4, 2012**

## 1. FINDINGS OF FACT

The Program Environmental Impact Report (EIR) assumes the adoption of the Proposed Ordinance by the Lead Agency, the County of San Mateo ("the County"), and adoption of ordinances that are identical or materially similar to the County's ordinance by each participating city in the Study Area. The Study Area is defined in the Program EIR as including the geographical limits of unincorporated San Mateo County and the participating municipalities as follows: Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Portola Valley, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco, Woodside, Campbell, Cupertino, Los Altos, Los Gatos, Milpitas, and Mountain View. The following references to "Proposed Ordinance" refer to the adoption of the ordinance by the City of Mountain View, a responsible agency and participating City in the Study Area:

### A. Impacts Declared to be Beneficial (No Mitigation Required)

#### Air Quality Impacts:

- Impact AQ-1: With a shift toward reusable bags, the Proposed Ordinance is expected to substantially reduce the number of single-use, carry-out bags, thereby reducing the total number of bags manufactured and the overall air pollutant emissions associated with bag manufacture, transportation, and use. Therefore, air-quality impacts related to alteration of processing activities would be Class IV, beneficial, effect.

#### Biological Resource Impacts:

- Impact BIO-1: Although the Proposed Ordinance would incrementally increase the number of recycled paper and reusable bags within the Study Area, the reduction in the amount of single-use plastic bags would be expected to reduce the overall amount of litter entering the coastal and Bay habitat, thus reducing litter-related impacts to sensitive wildlife species and sensitive habitats. This is a Class IV, beneficial, effect.

#### Hydrology and Water Quality Impacts:

- Impact HWQ-1: The Proposed Ordinance would incrementally increase the number of recycled paper and reusable bags used in the Study Area, but the reduction in the overall number of single-use plastic bags used in the Study Area would reduce the amount of litter and waste entering

storm drains. This would improve local surface-water quality, a Class IV, beneficial, effect.

**B. Impacts Declared to be Less Than Significant (No Mitigation Required)**

The City finds that the environmental impacts identified in the Final Program EIR as being "less than significant" or as having "no impact" have been described and analyzed accurately and are less than significant or will have no impact for the reasons described in the Final Program EIR. Reference should be made to the Draft Program EIR and Final Program EIR for a more complete description of the findings regarding these impacts.

Specifically, the City makes the following findings as to the following impacts:

**Air Quality Impacts:**

- Impact AQ-2: With an expected increase in the use of recyclable paper bags, the Proposed Ordinance would generate air pollutant emissions associated with an incremental increase in truck trips to deliver recycled paper and reusable carry-out bags to local retailers. However, emissions would not exceed Bay Area Air Quality Management District (BAAQMD) operational significance thresholds. Therefore, operational air quality impacts would be Class III, less than significant.

**Impacts Related to Greenhouse Gas Emissions:**

- Impact GHG-1: The Proposed Ordinance would increase the number of recyclable paper bags used in the Study Area. Implementation of the Proposed Ordinance would incrementally increase GHG emissions over existing levels. However, emissions would not exceed thresholds of significance. Therefore, impacts would be Class III, less than significant.
- Impact GHG-2: The Proposed Ordinance would not conflict with any agency's applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. Impacts would be Class III, less than significant.

**Hydrology and Water Quality Impacts:**

- Impact HWQ-2: A shift toward reusable bags and potential increase in the use of recyclable paper bags could potentially increase the use of chemicals associated with their production, which could degrade water

quality in some instances and locations. However, bag manufacturers would be required to adhere to existing regulations, including NPDES Permit requirements, AB 258, and the California Health and Safety Code. Therefore, impacts to water quality from increasing bag processing activities would be Class III, less than significant.

#### **Impacts to Utilities and Service Systems:**

- Impact U-1: The increase of reusable bags within the Study Area as a result of the Proposed Ordinance would incrementally increase, by a negligible amount, water demand due to washing of reusable bags. However, sufficient water supplies are available to meet the negligible increase in demand created by reusable bags. Therefore, water supply impacts would be Class III, less than significant.
- Impact U-2: Water use associated with washing reusable bags would increase negligibly in the Study Area, resulting in an increase in wastewater generation. However, projected wastewater flows would remain within the capacity of the wastewater collection and treatment system of the Study Area, and would not exceed applicable wastewater treatment requirements of the Regional Water Quality Control Board (RWQCB). Impacts would be Class III, less than significant.
- Impact U-3: The Proposed Ordinance would alter the solid waste generation associated with increased paper bag use in the Study Area. However, projected future solid waste generation would remain within the capacity of regional landfills. Impacts would, therefore, be Class III, less than significant.

## **2. ALTERNATIVES**

The Program EIR assumes the adoption of the Proposed Ordinance by the County and adoption of ordinances that are identical or materially similar to the County's ordinance by each municipality in the Study Area. The following references to "Proposed Ordinance" refer to the adoption of an individual ordinance by the City of Mountain View:

As noted above, the project would not result in any significant unavoidable effects. All potential impacts identified by the Draft Program EIR and the Final Program EIR are either beneficial or less than significant such that no mitigation measures are required. In order to select and analyze alternatives that would avoid or substantially lessen any of the project's identified less-than-significant adverse



environmental effects, the following environmental topics for which less-than-significant effects were identified in the Final Program EIR were considered:

- Air Quality: Pollutant emissions from paper bag manufacture and delivery.
- Greenhouse Gas Emissions: Emissions from paper bag manufacture, delivery, and degradation.
- Hydrology and Water Quality: Litter in storm drains and waterways associated with plastic and paper bags.
- Utilities and Service Systems: Water use from the manufacture of plastic and paper bags and cleaning of reusable bags, as well as wastewater generation from the cleaning of reusable bags. Solid waste from the disposal of plastic, paper, and reusable bags.

The following four alternatives are evaluated in the Final Program EIR:

- Alternative 1: No Project

The no project alternative assumes that the Proposed Ordinance is not adopted or implemented. Single-use plastic and paper carry-out bags would continue to be available free of charge to customers at most retail stores throughout the Study Area. In addition, reusable carry-out bags would continue to be available for purchase by retailers. Thus, it is assumed that the use of carry-out bags at Study Area retail stores would not materially change compared to current conditions.

- Alternative 2: Ban on Single-Use Plastic Bags at All Retail Establishments

Similar to the Proposed Ordinance, this alternative would prohibit Study Area retailers from providing single-use plastic carry-out bags to customers at the point-of-sale and create a mandatory minimum Ten Cent (\$0.10) charge per paper bag until December 31, 2014, and Twenty-Five Cents (\$0.25) per paper bag on or after January 1, 2015. However, under this alternative, the ordinance would apply to all categories of retail establishments, including restaurants and nonprofit, charitable retailers. As a result, under this alternative, no single-use plastic carry-out bags would be distributed at the point-of-sale anywhere within the Study Area.

- Alternative 3: Mandatory Minimum Charge of Twenty-Five Cents (\$0.25) for Paper Bags

This alternative would continue to prohibit Study Area retail establishments from providing single-use plastic bags to customers at the point of sale, but would increase the mandatory minimum charge for a single-use paper bag from \$0.10 to \$0.25 initially rather than on or after January 1, 2015. As a result of the \$0.15 mandatory minimum charge increase per paper bag, it is anticipated that this alternative would further and more quickly promote the use of reusable bags since customers would be deterred from purchasing paper bags due to the additional cost.

- Alternative 4: Ban on Both Single-Use Plastic and Paper Carry-Out Bags

This alternative would prohibit all Study Area retail establishments (except restaurants and nonprofit, charitable retailers) from providing single-use plastic and paper carry-out bags to customers at the point-of-sale. It is anticipated that by also prohibiting paper carry-out bags, this alternative would significantly reduce single-use paper carry-out bags within the Study Area, and further promote the shift to the use of reusable bags by retail customers. By banning both single-use plastic and paper bags, customers would be forced to use reusable carry-out bags. This is expected to increase the number of reusable bags purchased within the Study Area.

#### **A. Alternatives Eliminated from Consideration**

The Program EIR assumes the adoption of the Proposed Ordinance by the County and adoption of ordinances that are identical or materially similar to the County's ordinance by each municipality in the Study Area. The following references to "Proposed Ordinance" refer to the adoption of an ordinance by the City of Mountain View:

CEQA requires that all alternatives considered be described, but it does not require a full analysis of alternatives that are infeasible, that do not meet the project objectives, or that do not potentially reduce environmental impacts. Alternatives considered but eliminated from further consideration for these reasons are addressed in Section 6.5 of the Draft Program EIR and are summarized below.

- Additional litter removal programs, education efforts, enforcement for littering, and recycling programs for plastic bags: This alternative was rejected because it does not achieve the ordinance's objectives, including

reducing the use of paper bags and promoting a shift toward the use of reusable bags.

- Ban Styrofoam (polystyrene) in addition to banning single-use plastic carry-out bags: This alternative would not achieve the Proposed Ordinance's objectives of reducing the environmental impacts related to single-use plastic bags or reduce any of the Proposed Ordinance's environmental effects. Environmental impacts related to polystyrene use are outside the scope and objectives of the proposed action.
- Ban single-use plastic carry-out bags, but not charge for paper bags at retailers in the Study Area: This alternative was rejected because it would not reduce customers' use of paper bags, which have greater impacts related to air quality, GHG emissions, and water quality than plastic bags on a per-bag basis. In addition, this alternative would not achieve the Proposed Ordinance's objective of promoting a shift toward the use of reusable carry-out bags by retail customers to as great a degree as would occur with the Proposed Ordinance.
- Ban the use of single-use plastic carry-out bags by retailers (except restaurants), with the exception of plastic bags made with biodegradable or compostable additives: This alternative was rejected from consideration because the environmental impacts associated with using biodegradable and compostable additives are uncertain at this time. Researchers at California State University Chico Research Foundation tested the degradation of biodegradable bags in composting conditions and found that they did not degrade (CIWMB 2007; Green Cities California MEA, 2010). Furthermore, these bags reduce the quality of recycled plastics when introduced into the recycling stream and so must be kept separate to avoid contaminating the recycling stream (CIWMB 2007; Green Cities California MEA, 2010). Therefore, it is unclear what environmental impacts may be associated with switching to plastic bags made with biodegradable additives or water-soluble bags. In addition, this alternative would not achieve the objectives of reducing the amount of single-use plastic bags in trash loads (e.g., landfills), in conformance with the trash load reduction requirements of the NPDES Municipal Regional Permit, promoting a shift toward the use of reusable carry-out bags by retail customers and avoiding litter and the associated adverse impacts to stormwater systems, aesthetics, and the marine environment (San Francisco Bay and the Pacific Ocean).
- Ban the use of single-use plastic carry-out bags by retailers (except restaurants) and apply the ban to "doggie waste clean-up" bags at public

parks: While plastic "doggie waste clean-up" bags may have certain impacts to the environment, it is assumed that these types of bags represent only a very small percentage of total plastic-bag use. In contrast, the use of these types of bags promote the proper disposal of solid waste and benefit water quality in reducing sources of stormwater pollution. Thus, while this alternative would further reduce the overall number of plastic bags produced and used, it would not promote a shift toward the use of reusable carry-out bags by retail customers in the Study Area and could potentially increase impacts to stormwater systems. Environmental impacts related to plastic "doggie waste clean-up" bag use in the Study Area are outside the scope and objectives of the Proposed Ordinance.

- Implement an action targeting litter from homeless encampments near water bodies: This alternative would not achieve the objectives of reducing the amount of single-use plastic bags in trash loads (e.g., landfills), in conformance with the trash load reduction requirements of the NPDES Municipal Regional Permit and promoting a shift toward the use of reusable carry-out bags by retail customers.
- Require retailers to offer incentives for customers to use reusable bags (such as paying customers) rather than banning single-use bags: While this alternative may deter some customers from using single-use plastic and paper bags, it may not promote the shift to reusable carry-out bags by retail customers as effectively and would place a financial burden on the Study Area retailers.

## **B. Findings Regarding Project Alternatives**

CEQA only requires public agencies to make findings regarding the feasibility of project alternatives in limited circumstances. Public Resources Code Section 21081(a) provides that a public agency may not approve a project unless it makes findings, with respect to each significant project effect, that: (1) mitigation has been required to reduce the significant effect; (2) mitigation to reduce the significant effect is within the jurisdiction of another public agency and should be adopted by that agency; and (3) that "[s]pecific economic, legal, social, technological, or other considerations . . . make infeasible the mitigation measures or alternatives identified in the environmental impact report." (Pub. Res. Code Section 21081(a), emphasis added, see also CEQA Guidelines Section 15091(a).)

In *Mira Mar Mobile Community v. City of Oceanside* (CH Oceanside) (2004) 119 Cal.App.4th 477, 490, the Court of Appeals confirmed that, where the city

found that the only adverse impact of a project could be avoided through the imposition of mitigation measures, "it was not required to make any findings regarding the feasibility of proposed alternatives." (Citing *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 379 ["CEQA does not require the agency to consider the feasibility of environmentally superior project alternatives identified in the EIR if described mitigation measures will reduce environmental impacts to acceptable levels"], *Laurel Heights Improvement Ass'n v. Board of Supervisors* (1988) 47 Cal.3d 376, 402, and *Laurel Hills Homeowners Ass'n v. City Council* (1978) 83 Cal.App.3d 515, 521.)

The Project would not result in any significant unavoidable effects. All potential impacts identified by the Draft Program EIR and the Final Program EIR are either beneficial or less than significant such that no mitigation measures are required. Accordingly, the County is not required to make findings regarding the feasibility of the alternatives considered in the EIR.

**C. Summary of Significant Unavoidable Impacts**

Section 15126.2(b) of the CEQA Guidelines requires that an EIR describe any significant impacts which cannot be avoided. Based on the analysis contained in the Final Program EIR, implementation of the project would not result in any significant unavoidable environmental impacts.

**D. Growth-Inducing Impacts of the Project**

The Program EIR assumes the adoption of the Proposed Ordinance by the County and adoption of ordinances that are identical or materially similar to the County's ordinance by each municipality in the Study Area. The following references to "Proposed Ordinance" refer to the adoption of an individual ordinance in each participating agency of the Final Program EIR:

Section 15126.2(d) of the CEQA Guidelines requires a discussion of the ways in which a proposed action could be growth-inducing. This includes ways in which the project would foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.

Based on the analysis contained in the Draft Program EIR, the project would not be growth-inducing as it would not affect long-term employment opportunities or increase the region's population. Employment patterns in the region would not be affected as there are no known plastic bag manufacturing facilities in the Study Area. In addition, recyclable paper bag use is anticipated to increase incrementally. However, similar to plastic bag

manufacturing, employment patterns in the region would not be affected by the Proposed Ordinance as there are no known paper bag manufacturing plants in the Study Area. However, it should be noted that there is a paper bag manufacturing plant in Buena Park, California. Also, demand for reusable bags can be anticipated to increase. Nevertheless, incremental increases in the use of paper and reusable bags in the region are not anticipated to significantly affect long-term employment at these facilities or increase the region's population.

Revenues generated by sales of paper bags would remain with the affected stores. The Proposed Ordinance would not affect economic growth and, therefore, would not be significant.

No improvements to water, sewer, and drainage connection infrastructure would be necessary for project implementation. No new roads would be required. Because the Proposed Ordinance would not include any physical development or construction activities and would not involve the extension of infrastructure into areas that otherwise could not accommodate growth, it would not remove an obstacle to growth.

For these reasons, the project would not result in significant growth-inducing impacts.

#### **E. Significant Irreversible Changes to the Environment**

The Program EIR assumes the adoption of the Proposed Ordinance by the County and adoption of ordinances that are identical or materially similar to the County's ordinance by each municipality in the Study Area. The following references to "Proposed Ordinance" refer to the adoption of an individual ordinance in each participating agency of the Final Program EIR:

Section 15126.2(c) of the State CEQA Guidelines states that significant irreversible environmental changes associated with a project shall be discussed, including the following:

- (1) Uses of nonrenewable resources during the initial and continued phases of the project that may be irreversible because a large commitment of such resources makes removal or nonuse thereafter unlikely;
- (2) Primary impacts and, particularly, secondary impacts (such as highway improvement that provides access to a previously inaccessible area), which generally commit future generations to similar uses; and



- (3) Irreversible damage that could result from environmental accidents associated with the Project.

The intent of the Proposed Ordinance is to reduce the environmental impacts related to the use of single-use, carry-out bags, and to promote a shift toward the use of reusable bags. As an ordinance, the project would not include development of any physical structures or involve any construction activity. Therefore, the Proposed Ordinance would not alter existing land uses or cause irreversible physical alterations related to land development or resource use. To the contrary, the express purpose of the ordinance is to reduce the wasteful use of resources and associated environmental impacts. Therefore, the project, as proposed, would not result in significant irreversible environmental changes.

### **3. ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM**

All potential impacts identified by Program EIR are either beneficial or less than significant such that no mitigation measures are required. Therefore, no mitigation monitoring program is required or necessary.

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